

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

MICHAEL BISCHOFF,

Petitioner,

v.

Civil No. 06-CV-10231

HONORABLE BERNARD A. FRIEDMAN  
CHIEF UNITED STATES DISTRICT JUDGE

GENESIS HOUSE, et. al.,

Respondent,

\_\_\_\_\_ /

**OPINION AND ORDER OF SUMMARY DISMISSAL**

Michael Bischoff , (“Petitioner”), presently incarcerated at the Genesis House in Macomb Township, Michigan, filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. On January 30, 2006, Magistrate Judge R. Steven Whalen signed an “Order to Correct Deficiency,” in which petitioner was ordered to submit a \$ 5.00 fee for filing a habeas corpus petition or an application to proceed *in forma pauperis* within twenty one days of the order. For the reasons stated below, Petitioner’s action is dismissed without prejudice because of petitioner’s failure to comply with an order of the court.

**I. Discussion**

Petitioner’s application is subject to dismissal, because he failed to comply with the order of deficiency by either submitting the \$ 5.00 filing fee or an application to proceed *in forma pauperis*.

If a prisoner who seeks habeas corpus relief does not comply with a district court’s directions in a deficiency order, regarding the prisoner’s failure to pay the full

filing fee and his failure to provide the required documentation to apply to proceed *in forma pauperis*, the district court must presume that the prisoner is not a pauper, assess the full filing fee, and dismiss the case for want of prosecution. See *Gravitt v. Tyszkiewicz*, 14 Fed. Appx. 348, 349 (6<sup>th</sup> Cir. 2001)(citing *McGore v. Wigglesworth*, 114 F. 3d 601, 605 (6<sup>th</sup> Cir. 1997)). The deficiency order clearly stated that petitioner was required to submit either the \$ 5.00 filing fee or an application to proceed *in forma pauperis*. The deficiency order also expressly warned petitioner that failure to comply with the order could result in the dismissal of his action. Because petitioner failed to pay the filing fee or submit the required application to proceed *in forma pauperis*, his petition is subject to dismissal for want of prosecution. *Gravitt*, 14 Fed. Appx. at 349.

## II. ORDER

Based upon the foregoing, IT IS HEREBY ORDERED that the Petition for Writ of Habeas Corpus is DISMISSED WITHOUT PREJUDICE.

\_\_\_\_ s/Bernard A. Friedman \_\_\_\_\_  
**HON. BERNARD A. FRIEDMAN**  
**CHIEF UNITED STATES DISTRICT JUDGE**

**Dated:** March 21, 2006